

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

DENNIS HECKER, JONNA DUANE,
JANICE RIGGINS, individually and on behalf
of all those similarly situated,

BILL OF COSTS

Plaintiff,

06-cv-00719-jcs

v.

DEERE & COMPANY, FIDELITY
MANAGEMENT TRUST COMPANY, and
FIDELITY MANAGEMENT & RESEARCH
COMPANY,

Defendants.

Defendants Deere & Company and Fidelity Management Trust Company and Fidelity Management & Research Company request the Clerk to tax the following costs and disbursements pursuant to 28 U.S.C. § 1920. Separate requests for reimbursement have been filed. Plaintiff has filed objections. Judgment was entered in this action on June 22, 2007.

<u>Description</u>	<u>Deere</u>	<u>Fidelity</u>
Court reporter fees <i>in the alternative</i>	\$26,077.71 \$16,725.23 (see Docket 122, Ex. B)	\$ 25,973.11
Printing		\$ 787.44
Exemplification and copy fees	\$47,040.71	\$159,728.40
Other costs (delivery)	\$ 1,217.10	
Requested	\$74,335.52	\$186,488.95
Awarded	\$54,396.57	\$164,814.43

Defendants seek reimbursement of transcript costs. The costs of a transcript or deposition shall not exceed the regular copy rate as established by the Judicial Conference of the United States. The Judicial Conference regular rate for an original transcript is \$3.30 per page, and expedited rate is \$4.40 per page. The rate for copies of an original or expedited transcript is \$0.83 per page. VI Judicial Conference of the United States, Guide to Judiciary Policies and Procedures, Court Reporters' Manual, ch. 20, pt. 20.3; Order re: Transcript Fee Rates issued by Chief Judge Barbara B. Crabb, March 24, 2003.

Plaintiffs argue the taxable deposition transcript costs for Deere total \$5,908.25. This amount includes exhibit and archiving fees. Dkt. 125, p. 2. Plaintiffs argue the taxable deposition transcript costs for Fidelity should not exceed \$3,587.10. Dkt. 131, pp. 3-4.

Defendants seek reimbursement of multiple forms of a transcript (ASCII, minuscule, e-trans). Defendants cite the court's discovery schedule created the need for a variety of forms of the transcript. Defendants did not identify one alternative form of any transcript but ordered ASCII, e-transcript, and condensed copy of the same transcript. Defendant Deere is being reimbursed for costs of an original expedited transcript. These costs are not taxable because they appear to be for the convenience of counsel.

The costs of a stenographic transcript and videotape of a deposition may be taxed against a party. Jacobs v. University of Wisconsin Hosp. and Clinics Auth., 12 Fed. Appx. 386, 390 (7th Cir. 2001). Defendants are still limited to recover only reasonable and necessary costs. Defendants only explanation as to why it was necessary to videotape the depositions was to evaluate the credibility of testifying witness. Defendants' request for costs related to videotaping the depositions is denied.

The Judicial Conference guidelines provide that "[p]ostage costs are considered an ordinary business expense; therefore, the court reporter or transcriber may not charge for ordinary postage." VI Judicial Conference of the United States, Guide to Judiciary Policies and Procedures, Court Reporters' Manual, ch. 20, pt. 20.9.4. Defendants are not awarded transcript delivery charges.

Defendants' recoverable costs for the transcripts are limited to the following.:

DEPONENT: JONNA DUANE

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Orig. Transcript	\$809.60 (184 pages)	\$809.60 184 pgs x \$4.40			
Copy Transcript				\$1,555.40	\$152.72 184 pgs x \$.83
ASCII	\$165.60	\$0.00			
Attend. Fee	\$192.00	\$192.00			
Admin. Fee	\$120.00	\$0.00			
Exhibit Copies	\$299.60	\$299.60			
E-Transcript	\$40.00	\$0.00			
Archiving	\$7.50	\$7.50			
Word Index	\$69.00	\$0.00			
Delivery	\$15.00	\$0.00			
Negotiated Discount	(\$199.77)				
TOTALS	\$1,518.53	\$1,308.70		\$1,555.40	\$152.72

DEPONENT: DENNIS HECKER

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Orig. Transcript	\$990 (225 pages)	\$990 225 pgs x \$4.40			
Copy Transcript				652.50 (225 pgs x \$2.90)	\$186.75 225 x \$.83
ASCII	\$337.50	\$0.00		337.50	\$0.00
Attend. Fee	\$225.00	\$225.00			
Exhibit Reprod				\$181.20 (453 pgs x \$.40)	\$181.20
ETV-Exhibits	\$45.00	\$45.00		\$45.00	\$0.00
Condensed Copy	\$25.00	\$0.00			
Archiving	\$30.00	\$30.00		\$30.00	\$30.00
Delivery	\$10.00	\$0.00		\$52.32	\$0.00
TOTALS	\$1,662.50	\$1,290.00		\$1,298.52	\$397.95

DEPONENT: JANICE RIGGINS

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Orig. Transcript	\$910.80 (207 pages)	\$910.80 207 pg x \$4.40			
Copy Transcript				\$641.70 207 pg x \$3.10	\$171.81 207 pg x \$.83
ASCII	\$310.50	\$0.00		\$310.50	\$0.00
Attend. Fee	\$326.25	\$326.25			
Exhibit Reprod				\$170.00 425 pg x \$.40	\$170.00
ETV-Exhibits	\$45.00	\$45.00		\$45.00	\$0.00
Condensed Copy	\$25.00	\$0.00			
Video Recording	\$1,143.75	\$0.00			
DVD Conversion	\$455.00	\$0.00		\$455.00	\$0.00
Archiving (trans. & video)	\$50.00	\$30.00		\$40.00	\$30.00
Delivery (trans. & video)	\$15.00	\$0.00		\$77.28	\$0.00
TOTALS	\$3,281.30	\$1,312.05		\$1,739.48	\$371.81

DEPONENT: PAMELA WILKS

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Transcript	\$207.75 277 pg x \$.75	\$229.91 277 pg x \$.83		\$747.90 277 pg x \$2.70	\$229.91 277 pg x \$.83
ASCII				\$415.50	\$0.00
Exhibit Reprod	\$318.80 797 pg x \$.40	\$318.80		\$318.80 797 pg x \$.40	\$318.80
Oversized Exhibits	\$90.00 60 pg x \$1.50	\$90.00		\$90.00 60 pg x \$1.50	\$90.00
ETV-Exhibits	\$45.00	\$0.00		\$45.00	\$0.00
DVD Conversion	\$525.00	\$0.00		\$525.00	\$0.00
Archiving (trans. & video)	\$40.00	\$30.00		\$40.00	\$30.00
Delivery (trans. & video)	\$17.50	\$0.00.		\$82.98	\$0.00
TOTALS	\$1,244.05	\$668.71		\$2,265.18	\$668.71

DEPONENT: DENNIS SCHWARTZ

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Transcript	\$174.75 233 pg x \$.75	\$193.39 233 pg x \$.83		\$629.10 233 pg x \$2.70	\$193.39 233 pg x \$.83
ASCII				\$349.50	\$0.00
Exhibit Reprod	\$64.40 161 pg x \$.40	\$64.40		\$64.40 161 pg x \$.40	\$64.40
ETV Exhibits	\$45.00	\$0.00		\$45.00	\$0.00
DVD Conversion	\$350.00	\$0.00		\$350.00	\$0.00
Archiving (trans. & video)	\$40.00	\$30.00		\$40.00	\$30.00
Delivery (trans. & video)	\$17.50	\$0.00		\$63.60	\$0.00
TOTALS	\$691.65	\$287.79		\$1,541.60	\$287.79

DEPONENT: GLEN HUSTON

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Condensed Copy Expedited	\$123.00 164 pg x \$.75	\$136.12 164 pg x \$.83		\$467.40 164 pg x \$2.85	\$136.12 164 pg x \$.83
Exhibits	\$114.50 458 pg x \$.25	\$114.50		\$114.50 458 pg x \$.25	\$114.50
ASCII				\$123.00	\$0.00
Attend. Fee	\$20.00	\$20.00			
Reading & Signing Copy	\$41.00	\$0.00			
DVD	\$140.00	\$0.00		\$140.00	\$0.00
Postage (trans. & video)	\$8.40	\$0.00		\$14.60	\$0.00
Archive (video)	\$3.50	\$0.00		\$3.50	\$0.00
TOTALS	\$450.40	\$270.62		\$863.00	\$250.62

DEPONENT: MERTROE HORNBUCKLE

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Condensed Copy Expedited	\$72.75 97 pg x \$.75	\$80.51 97 pg x \$.83		\$145.50 97 pg x \$1.50	\$80.51 97 pg x \$.83
ASCII	\$72.75	\$0.00		\$72.75	\$0.00
Attend. Fee	\$20.00	\$20.00			
Reading & Signing Copy	\$24.25	\$0.00			
Postage	\$5.25	\$0.00		\$5.25	\$0.00
Archive (trans.)	\$3.50	\$3.50		\$3.50	\$3.50
TOTALS	\$198.50	\$104.01		\$227.00	\$84.01

DEPONENT: JOHN LEINART

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Condensed Copy	\$107.25 143 pg x \$.75	\$118.69 143 pg x \$.83		\$214.50 143 pg x \$1.50	\$118.69 143 pg x \$.83
ASCII	\$107.25	\$0.00		\$107.25	\$0.00
Attend. Fee	\$20.00	\$20.00			
Reading & Signing Copy	\$35.75	\$0.00			
DVD	\$140.00	\$0.00		\$140.00	\$0.00
Postage	\$5.25	\$0.00		\$5.25	\$0.00
Archive (trans. & video)	\$7.00	\$3.50		\$7.00	\$3.50
TOTALS	\$422.50	\$142.19		\$474.00	\$122.19

DEPONENTS: FRANCIS BASTIEN & GREGORY LOCKE (dual depositions)

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Expedited	\$252.00 336 pg x \$.75	\$278.88 336 pg x \$.83		\$534.24	\$278.88 336 pg x \$.83
ASCII	\$504.00	\$0.00		\$504.00	\$0.00
Attend. Fee				\$890.40 (\$765.85 Bastien) (\$124.55 Locke)	\$0.00
Condensed Copy	\$50.00	\$0.00		\$50.00	\$0.00
DVD	\$525.00	\$0.00		\$525.00	\$0.00
CD ROM	\$35.00	\$0.00		\$25.00	\$0.00
Shipping (trans. & video)	\$76.55	\$0.00		\$38.50	\$0.00
Archive (trans.)	\$40.00	\$40.00		\$34.00	\$34.00
TOTALS	\$1,482.55	\$318.88		\$2,601.14	\$312.88

DEPONENT: JOANNE MORLAN

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Expedited	\$232.50 310 pg x \$.75	\$257.30 310 pg x \$.83		\$548.70 310 pg x \$1.77	\$257.30 310 pg x \$.83
ASCII	\$465.00	\$0.00		\$465.00	\$0.00
Attend. Fee				\$914.50	\$0.00
Condensed Copy	\$25.00	\$0.00		\$25.00	\$0.00
DVD	\$525.00	\$0.00		\$525.00	\$0.00
CD ROM	\$35.00	\$0.00		\$35.00	\$0.00
Shipping (trans. & video)	\$51.25	\$0.00		\$38.50	\$0.00
Archive	\$20.00	\$20.00		\$20.00	\$20.00
TOTALS	\$1,353.75	\$277.30		\$2,571.70	\$277.30

DEPONENT: PAUL MONTECALVO

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Expedited	\$188.25 251 pg x \$.75	\$208.33 251 pg x \$.83		\$444.27 251 pg x \$1.77	\$208.33 251 pg x \$.83
ASCII	\$376.50	\$0.00		\$376.50	\$0.00
Attend. Fee				\$740.45	\$0.00
Condensed Copy	\$25.00	\$0.00		\$25.00	\$0.00
DVD	\$375.00	\$0.00		\$375.00	\$0.00
CD ROM	\$35.00	\$0.00		\$35.00	\$0.00
Shipping (trans. & video)	\$72.20	\$0.00		\$38.50	\$0.00
Archive	\$20.00	\$20.00		\$20.00	\$20.00
TOTALS	\$1,091.95	\$228.33		\$2,054.72	\$228.33

DEPONENT: DAVID MOORE

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Expedited	\$140.25 187 pg x \$.75	\$155.21 187 pg x \$.83		\$297.33	\$155.21 187 pg x \$.83
Exhibits & Tabs	\$112.50	\$112.50		\$112.50	\$112.50
ASCII				\$280.50	\$0.00
Attend. Fee				\$495.55	\$0.00
Condensed Copy	\$25.00	\$0.00		\$25.00	\$0.00
DVD	\$262.50	\$0.00		\$262.50	\$0.00
CD ROM	\$35.00	\$0.00		\$25.00	\$0.00
Shipping (trans. & video)	\$53.55	\$0.00		\$38.50	\$0.00
Archive	\$20.00	\$20.00		\$17.00	\$17.00
TOTALS	\$648.80	\$287.71		\$1,553.88	\$284.71

DEPONENTS: CHRISTOPHER MCGEOWN & STEVEN TIBBITS (dual depositions)

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Expedited	\$274.50 366 pg x \$.75	\$303.78 366 pg x \$.83		\$647.82 366 pg x \$1.77	\$303.78 366 pg x \$.83
ASCII	\$549.00	\$0.00		\$549.00	\$0.00
Attend. Fee				\$1,079.70	\$0.00
Condensed Copy	\$50.00	\$0.00		\$50.00	\$0.00
DVD				\$525.00	\$0.00
CD ROM	\$25.00	\$0.00		\$25.00	\$0.00
Shipping (trans. & video)	\$34.20	\$0.00		\$45.05	\$0.00
Archive	\$40.00	\$40.00		\$40.00	\$40.00
TOTALS	\$972.70	\$343.78		\$2,961.57	\$343.78

DEPONENT: BRIAN HUTTON

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Expedited	\$111.75 149 pg x \$.75	\$123.67 149 pg x \$.83		\$263.73 149 pg x \$1.77	\$123.67 149 pg x \$.83
ASCII	\$223.50	\$0.00		\$223.50	\$0.00
Attend. Fee				\$439.55	\$0.00
Condensed Copy	\$25.00	\$0.00		\$25.00	\$0.00
DVD				\$225.00	\$0.00
CD ROM	\$25.00	\$0.00		\$25.00	\$0.00
Shipping (trans. & video)	\$23.85	\$0.00		\$38.50	\$0.00
Archive	\$20.00	\$20.00		\$20.00	\$20.00
TOTALS	\$429.10	\$143.67		\$1,260.28	\$143.67

DEPONENTS: GUY PATTON & BRIGITTE GENTILE (dual depositions)

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Expedited	\$200.25 267 pg x \$.75	\$221.61 267 pg x \$.83		\$472.59 267 pg x \$1.77	\$221.61 267 pg x \$.83
ASCII	\$400.50	\$0.00		\$400.50	\$0.00
Attend. Fee				\$787.65	\$0.00
Condensed Copy	\$50.00	\$0.00		\$50.00	\$0.00
DVD				\$450.00	\$0.00
CD ROM	\$35.00	\$0.00		\$35.00	\$0.00
Shipping (trans. & video)	\$26.20	\$0.00		\$61.25	\$0.00
Archive	\$40.00	\$40.00		\$40.00	\$40.00
TOTALS	\$751.95	\$261.61		\$2,296.99	\$261.61

DEPONENT: GAUTAM VANGALA

Transcript or Service	DEERE Amount Requested	DEERE Amount Awarded		FIDELITY Amount Requested	FIDELITY Amount Awarded
Copy Expedited	\$72.75 97 pg x \$.75	\$80.51 97 pg x \$.83		\$286.15 97 pg x \$2.95	\$80.51 97 pg x \$.83
ASCII	\$145.50	\$0.00		\$145.50	\$0.00
Exhibits & Tabs	\$18.00	\$18.00		\$18.00	\$18.00
Attend. Fee				\$286.15	\$0.00
Condensed Copy	\$25.00	\$0.00		\$25.00	\$0.00
DVD	\$150.00	\$0.00		\$150.00	\$0.00
CD ROM	\$25.00	\$0.00		\$25.00	\$0.00
Shipping (trans. & video)	\$68.75	\$0.00		\$38.50	\$0.00
Archive	\$20.00	\$20.00		\$20.00	\$20.00
TOTALS	\$525.00	\$110.51		\$708.15	\$110.51
FINAL TOTALS	\$16,725.23	\$7,355.86		\$25,972.61	\$4,298.59

Deere seeks reimbursement of expenses for copies needed for deposition preparation (\$12,152.04), expenses for discovery copies (\$30,131.84), and expenses for court copies (\$4,756.83). These costs are taxable. Fidelity seeks reimbursement of \$159,728.40 for exemplification costs. Plaintiff notes that \$141,022.00 of these expenses are for “processing.” Fidelity states that the expenses were incurred in responded to plaintiffs’ four sets of document requests, which exceeded 97,000 pages. Fidelity asserts the processing charges relate to the selection and conversion of electronic documents that did not involve attorney review. Dkt. 130, p. 4. Plaintiffs do not indicate that defendants deviated from any request by them to produce the discovery documents in a specific manner.

Deere seeks “other costs” of \$1,217.10, which consists of delivery costs of discovery documents (Dkt. 117, p.8) and delivery costs of court filings. These costs are overhead and not taxable.

Costs are taxed in the amount of \$54,396.57 for Deere and \$164,814.43 for Fidelity and included in the judgment.

Dated this 20th day of December, 2007.

/s/

Theresa M. Owens
Clerk of Court